



General Assembly

January Session, 2011

Raised Bill No. 6372

LCO No. 3451

* ____HB06372PH____022511____*

Referred to Committee on Public Health

Introduced by:
(PH)

***AN ACT CONCERNING PATIENT ACCESS TO RECORDS
MAINTAINED BY HEALTH CARE INSTITUTIONS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 19a-490b of the general statutes is repealed and
2 the following is substituted in lieu thereof (*Effective October 1, 2011*):

3 (a) Upon the written request of a patient or the patient's attorney or
4 authorized representative, or pursuant to a written authorization, an
5 institution licensed pursuant to this chapter shall furnish to the person
6 making such request a copy of the patient's health record, or upon
7 such person's request, allow an on-site examination of the record,
8 including, but not limited to, copies of bills, laboratory reports,
9 prescriptions and other technical information used in assessing the
10 patient's health condition. In addition, an institution shall provide the
11 patient or the patient's designated health care provider with a
12 reasonable opportunity to examine retained tissue slides and retained
13 pathology tissue blocks. Upon the written request of the patient, the
14 patient's attorney or the patient's designated health care provider, an
15 institution shall send the original retained tissue slide or original
16 retained tissue block directly to the patient's designated licensed

17 institution, laboratory or physician. If the original slide or block is not
 18 available or if a new section cut of the original slide or block is a fair
 19 representation of the original slide or block, then the institution may
 20 send the new section cut, which is clearly labeled as a new section cut,
 21 to the patient's designated health care provider. Any patient or the
 22 patient's attorney or authorized representative who is provided with
 23 an original retained slide, tissue block or a new section under the
 24 provisions of this subsection shall be solely responsible for
 25 safeguarding and returning the slide, block or new section to the
 26 institution. Any institution or laboratory that has released an original
 27 slide, an original tissue block or new section pursuant to the provisions
 28 of this subsection shall not be subject to any liability arising out of
 29 releasing or not retaining the slide, block or new section and no cause
 30 of action for damages shall arise against any such institution for
 31 releasing or not retaining the slide, block or new section. No such
 32 institution shall charge more than sixty-five cents per page, including
 33 any research fees, clerical fees, handling fees or related costs, and the
 34 cost of first class postage, if applicable, for furnishing or providing
 35 access to a health record pursuant to this subsection, except such an
 36 institution may charge the amount necessary to cover its cost of
 37 materials for furnishing a copy of an x-ray or for furnishing an original
 38 retained slide, an original tissue block or a new section cut from a
 39 retained pathology tissue block. For purposes of this subsection,
 40 "health care provider" means an institution or laboratory licensed
 41 under this chapter or licensed in the state where located or a physician
 42 licensed under chapter 370 or licensed in the state where located.

43 (b) [No institution licensed pursuant to this chapter shall charge for
 44 furnishing a health record or part thereof to a patient, his attorney or
 45 conservator if the record or part thereof is necessary for the purpose of
 46 supporting a claim or appeal under any provision of the Social
 47 Security Act and the request for the records is accompanied by
 48 documentation of the claim or appeal.] An institution shall furnish the
 49 requested record [within] or allow an on-site examination of the record
 50 not later than thirty days after the date of the request, unless the

51 request was received [in] less than thirty days [subsequent to] after the
52 date [the patient was discharged] of the patient's discharge, in which
53 case the institution shall furnish the requested record upon its
54 completion.

55 (c) Each institution licensed pursuant to this chapter shall maintain
56 information regarding each patient's status as a veteran, as defined in
57 subsection (a) of section 27-103. Said information shall be made
58 available, upon request, to any duly authorized representative of the
59 Department of Veterans' Affairs.

60 (d) No institution may deny a person the records available under
61 subsection (a) of this section because of the person's inability to pay the
62 required fees. An affidavit from such person attesting to an inability to
63 pay such fees shall be presumptive evidence thereof.

64 (e) No institution licensed pursuant to this chapter shall charge for
65 furnishing a health record or part thereof to a patient, the patient's
66 attorney or conservator, if the record or part thereof is necessary for
67 the purpose of supporting a claim or appeal under any provision of the
68 Social Security Act and the request for the record is accompanied by
69 documentation of the claim or appeal.

70 ~~[(e)]~~ (f) Each institution licensed pursuant to this chapter that ceases
71 to operate shall, at the time it relinquishes its license to the department,
72 provide to the department a certified document specifying: (1) The
73 location at which patient health records will be stored; (2) the
74 procedure that has been established for patients, former patients or
75 their authorized representatives to secure access to such health
76 records; (3) provisions for storage, should the storage location cease to
77 operate or change ownership; and (4) that the department is
78 authorized to enforce the certified document should the storage
79 location cease to operate or change ownership. An institution that fails
80 to comply with the terms of a certified document provided to the
81 department in accordance with this subsection shall be assessed a civil
82 penalty not to exceed one hundred dollars per day for each day of

83 noncompliance with the terms of the certified agreement.

84 (g) A patient, or person designated to act on behalf of such patient,
 85 who is aggrieved by the failure of an institution to comply with the
 86 provisions of this section, may file a written complaint with the
 87 Department of Public Health setting forth the facts that are alleged to
 88 constitute a violation of the provisions of this section. Not later than
 89 thirty days after the date of receipt of such complaint, the
 90 Commissioner of Public Health shall conduct a hearing in accordance
 91 with the provisions of chapter 54 on the allegations set forth in the
 92 complaint. The commissioner shall provide reasonable notice of the
 93 hearing date to the complainant and the institution. If after such
 94 hearing the commissioner finds that there has been a substantial
 95 failure by the institution to comply with the requirements of this
 96 section, the commissioner shall order that the record be disclosed to
 97 the complainant not later than five calendar days after the date of the
 98 commissioner's written decision. The commissioner's written decision
 99 shall be a final decision for the purposes of chapter 54. The
 100 commissioner shall adopt regulations in accordance with the
 101 provisions of chapter 54 to carry out the purposes of this section. In
 102 adopting such regulations, the commissioner shall give due
 103 consideration to other state laws governing access to medical records,
 104 possible defenses for failing to provide access to medical records, as
 105 well as federal law requirements, including those set forth in the
 106 Health Insurance Portability and Accountability Act of 1996, P.L. 104-
 107 191, as amended from time to time.

This act shall take effect as follows and shall amend the following sections:

Section 1	October 1, 2011	19a-490b
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PH *Joint Favorable*